

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NY STONE MANHATTAN, LLC,
Plaintiff,
-against-
COWAN LOGISTICS, LLC,
Defendant.

1:23-cv-01159 (JLR)

ORDER

JENNIFER L. ROCHON, United States District Judge:

On February 14, 2023, the Court ordered Plaintiff to file a completed Rule 7.1 Disclosure Statement and provide all information necessary to establish subject matter jurisdiction based on diversity of citizenship. *See* ECF No. 9. Plaintiff thereafter filed a document captioned “Rule 7.1 Disclosure Statement.” *See* ECF No. 10. Plaintiff’s submission was different from and did not provide all of the information required by the Rule 7.1 Disclosure Statement used in the Southern District of New York and linked in the Court’s February 14, 2023 Order. Nor did Plaintiff’s submission provide all information necessary to establish subject matter jurisdiction.

As the Court stated in its prior order, the Complaint alleges that Plaintiff NY Stone Manhattan, LLC is a limited liability corporation and one of Plaintiff’s two members is “NL Cohen Acquisition, a Delaware corporation.” ECF No. 5 (“Compl.”) ¶¶ 3-4. In its Rule 7.1 Disclosure Statement, Plaintiff alleges that NL Cohen Acquisition is “a citizen of New York State.” ECF No. 10. Plaintiff still has not alleged the place of incorporation and principal place of business of NL Cohen Acquisition. Therefore, Plaintiff has failed to establish Plaintiff’s citizenship for purposes of diversity jurisdiction. *See* ECF No. 9; *Universal Licensing Corp. v. Paola del Lungo S.p.A.*, 293 F.3d 579, 581 (2d Cir. 2002) (“For diversity purposes, a corporation

is deemed to be a citizen both of the state in which it has its principal place of business and of any state in which it is incorporated.” (citing 28 U.S.C. § 1332(c)(1)).

With respect to Defendant, the Complaint alleges that Defendant is a “foreign limited liability corporation” incorporated in Maryland with a principal place of business in Maryland. Compl. ¶ 5. Plaintiff has failed to name and state the citizenship of any of Defendant’s members as Plaintiff is required to do. *See ECF No. 9; Handelsman v. Bedford Vill. Assocs. L.P.*, 213 F.3d 48, 51-52 (2d Cir. 2000); *U.S. Liab. Ins. Co. v. M Remodeling Corp.*, 444 F. Supp. 3d 408, 410 (E.D.N.Y. 2020).

Additionally, the Complaint does not establish that venue is proper in the Southern District of New York. The Complaint alleges that “[v]enue is proper given that plaintiff is a Limited Liability Corporation who has a member resides [sic] in New York State.” Compl. ¶ 2. However, a plaintiff’s residency is not a proper basis for venue under 28 U.S.C. § 1391(b). *See* 28 U.S.C. § 1391(b) (enumerating places in which a civil action may be brought). Nor is an alternative basis for venue apparent from the face of the Complaint.

The Court will afford one more opportunity for Plaintiff to meet its burden of establishing subject-matter jurisdiction. Accordingly, IT IS HEREBY ORDERED that Plaintiff shall, no later than **March 2, 2023**, file a letter, supported by one or more sworn affidavits, that provide the necessary prerequisites for the Court to exercise subject-matter jurisdiction in this case, including by alleging the identity and citizenship of members of the Defendant limited liability company and places of incorporation and principal place of business of NL Cohen Acquisition.

IT IS FURTHER ORDERED that Plaintiff shall, by **March 2, 2023**, show why venue is proper in the Southern District of New York, citing applicable rules and case law in support.

IT IS FURTHER ORDERED that Plaintiff shall, by **March 2, 2023**, submit a completed version of the Rule 7.1 Disclosure Statement available here:

<https://www.nysd.uscourts.gov/forms/rule-71-statement>.

If Plaintiff is unable to allege a good-faith basis for complete diversity of citizenship and venue by that date, the action will be dismissed, without further notice to the parties.

Dated: February 23, 2023
New York, New York

SO ORDERED.



JENNIFER L. ROCHON
United States District Judge